

Central Valley Regional Water Quality Control Board

17 December 2021

Mr. James Christensen
City of Sacramento – Department of Public Works
5730 24th Street, Building 4
Sacramento, CA 95822

Draft Variance to Land Use Covenant, Colfax Yard (T0606700685), 2225 Colfax Street, Sacramento, Sacramento County

Dear Mr. Christensen,

On 15 June 2017, the City of Sacramento (the City) recorded a Land Use Covenant (LUC) to the deed of its property at 2225 Colfax Street in Sacramento (Site). The LUC was assigned Sacramento County Recorder's Office Document no. 201706150985. The LUC is a condition of the Colfax Yard petroleum release case closure.¹ In a letter dated 14 October 2021, the City requested a variance to sections 4.1b, 4.1c, and 4.1d of the LUC. This document describes the variance conditions, applicability, and supporting data.

Variance

The Executive Officer of the Central Valley Regional Water Quality Control Board (Central Valley Water Board) grants a variance to the LUC sections 4.1b, 4.1c, and 4.1d for the following property use, as requested by the City:

1. The City can use the Site to host up to about 50 vehicles for occupancy by persons experiencing homelessness. This use is known as "Safe Parking."
2. The City can install an office trailer, in which case managers for the Safe Parking program can work.
3. To accommodate the City's request for a one- to two-year Safe Parking program, this variance will end on **1 June 2024**.

¹ More information about the Colfax Yard petroleum release case may found on the State Water Resources Control Board's GeoTracker database, at the following link:

https://geotracker.waterboards.ca.gov/profile_report?global_id=T0606700685.

DENISE KADARA, ACTING CHAIR | PATRICK PULUPA, EXECUTIVE OFFICER

4. The City proposed that the Site will be fenced in, secured, and staffed 24 hours a day. This is acceptable, but fencing must enclose the entire property, not just the paved portion. Two fences may be utilized by the City if desired: one along the property line and a second fence around the Safe Parking area on the property.

For additional protection of human health and safety, the following stipulations must also be followed as part of the variance approval:

5. If underground utilities for vehicles are necessary, utility connections and trenches must be sealed at all inception and termination points to prevent potential vapor transport from underground utilities and trenches to the vehicles. Central Valley Water Board staff must concur with all plans to connect underground utilities to vehicles before such plans may be implemented.
6. The City or vehicle occupant(s) cannot attach “skirts” or otherwise enclose the area under vehicles in a manner that prevents or limits air flow between the ground and the bottom of the vehicle or trailer. Free airflow between the ground and the occupied portion of the vehicles and trailers onsite must be maintained.
7. Tents on the ground surface for sleeping or day use are not allowed. Open shade awnings that allow continuous natural air flow are allowed.
8. The following statement must be posted at the entrance gate into the Safe Parking area and every 100 feet along the exterior fence: “Temporary residence only allowed in vehicles through June 1, 2024. Residence in tents, buildings, and other enclosed structures on the ground surface is not allowed on the property due to potentially hazardous vapors that could accumulate in on-ground structures. This requirement is recorded on the property deed. For more information search the Colfax Yard case (T0606700685) online at: <https://geotracker.waterboards.ca.gov>.”

This variance is only related to the LUC and does not replace the need to follow all applicable State, Federal and local laws, codes, permits, policies, and regulations. The LUC does not have an expiration date and remains in effect until it has been satisfactorily demonstrated to the Central Valley Water Board that the conditions at the Site no longer present a risk to human health and safety or the environment for unrestricted use.

Variance Applicability

As stated in Article I of the LUC, soil gas samples collected in 2007 contained benzene, trichloroethene (TCE), and tetrachloroethene (PCE) above concentrations that may pose a residential indoor air human health risk. Article IV of the LUC restricts development of the Site to commercial and industrial use, prohibits residence for human habitation, and prohibits daycares; however, the Central Valley Water Board may approve a change in land use if additional monitoring and/or mitigation measures

demonstrate that exposure to soil vapor no longer poses an unacceptable risk to human health and safety. Section 5.1 of the LUC allows the owner of the Site to apply to the Central Valley Water Board for a written variance from the provisions of the LUC and provides that such a variance will not be unreasonably withheld. Section 7.1 of the LUC requires, should a land use change be proposed, that an adequate work plan to reassess Site conditions through all possible exposure pathways for the proposed land use change be submitted to the Central Valley Water Board.

Variance Support Data Evaluation

Stantec Consulting Services Inc. (Stantec) on behalf of the City, submitted an outdoor air sampling work plan on 3 November 2021 and an outdoor air results report on 7 December 2021. On 10 December 2021, Stantec submitted an addendum to the outdoor air results report with additional information supporting the variance request. The laboratory detected between 0.80 and 1.2 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) of benzene in the three outdoor air samples. Benzene concentrations increased in the downwind direction and were highest in the sample collected closest to Arden Way. Benzene is a component of petroleum-powered vehicle fuel exhaust. The laboratory did not detect TCE and PCE in the outdoor air samples.

Stantec concluded that the presence of benzene in ambient air is consistent with statewide conditions unrelated to subsurface soil vapor. In the addendum letter, Stantec cited the California Air Resources Board's statewide 90th percentile benzene concentration between 2015 and 2020 ranged from 1.05 to 1.69 $\mu\text{g}/\text{m}^3$.

The above supporting data were only used to evaluate the need for Safe Parking on the Site with regards to vehicles and do not adequately substantiate support for any alternate dwellings and/or structures outside of the circumstances stated above in this variance.

Reservation of Right to Terminate or Modify Variance Based on Unknown Conditions or New Information

The Executive Officer of the Central Valley Water Board reserves the right to terminate or otherwise modify this variance at any time if previously unknown conditions are discovered or previously unknown information is received, in whole or in part, which indicate that Site conditions may pose an unreasonable risk to human health and safety.

Summary

This document is a temporary variance to the LUC and outlines specific conditions for property use outside of the LUC restrictions. The LUC allows for a variance if monitoring and mitigation demonstrate that there is no risk to human health and safety. Stantec collected outdoor air samples and concluded that the proposed property use does not present a human health or safety risk. Central Valley Water Board staff concurred that subsurface benzene, PCE, and TCE do not pose a risk to human health

or safety under the conditions and terms listed in the LUC and this variance. This variance may be modified or terminated by the Executive Officer of the Central Valley Water Board if previously unknown conditions are discovered, or new information is received indicating that Site conditions may pose an unreasonable risk to human health or safety.

Sincerely,

Patrick Pulupa, Executive Officer

cc: Mr. Neil Doran, Stantec Consulting Services Inc., Rocklin